

TRANSMITTAL OF APPEAL BRIEF (Small Entity)

Docket No.
57624.010004

In Re Application Of: Kargman et al.

Serial No.
09/997,578Filing Date
November 29, 2001Examiner
A. Robinson- BoyceGroup Art Unit
3623

Invention: System for Placing Orders Through the Internet to a Selected Store of a Chain of Stores

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GROUP 3600TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:
March 2, 2004

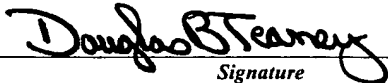
Applicant is a small entity under 37 CFR 1.9 and 1.27.

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IN RE
APPLICATION OF: Kargman et al

CASE: 57624.010004 (please note new
docket number – prior docket no.
2011783)

APPEAL BRIEF
Under 37 CFR §1.192

SERIAL NO: 09/997,578

FILED ON: November 29, 2001

FOR: SYSTEM FOR PLACING
ORDERS THROUGH THE
INTERNET TO A SELECTED
STORE OF A CHAIN OF STORES

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ATTENTION OF:
Examiner:
A. Robinson-Boyce
Group Art Unit 3623

Dear Sir:

If any charges or fees must be paid in connection with the following communication, they may be paid out of our Deposit Account No. 50-2428.

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-32, which rejection was set forth in the Final Office Action mailed September 2, 2003.

Appellants filed a timely Notice of Appeal on March 2, 2004, which was received by the United States Patent and Trademark Office on March 8, 2004.

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I. Real Party In Interest

The real party in interest is National Systems, Inc. of 351 W. Hubbard Street, Suite 502, Chicago, IL 60610.

II. Related Appeals And Interferences

No appeals or interferences are known which will directly affect, or be directly affected by, or have bearing on, the Board's decision in the pending appeal.

III. Status Of The Claims

Claims 1-32 are pending and, having been finally rejected, are the subject of this appeal. Appendix A provides a clean, double spaced copy of pending claims 1-32.

IV. Status Of Amendments

No additional amendment to claims 1-32 is pending or has been filed subsequent to the Final Office Action mailed September 2, 2003.

V. Summary Of The Invention

The present invention is directed to a system for use with the Internet that links a chain of stores to a central server on the Internet by which geographically-dispersed customers may place an order to a selected one of the chain of stores as determined by the system of the invention.

To begin the process of placing an order over the Internet for goods to be delivered to the customer's location, an internet customer using the present invention would first access a central Internet website. (Application at 3.) This website, and the interactive software that is accessed there, is designed to replace human order-takers in a conventional customer-vendor scenario. In particular, the software acts as the order-taking interface between the customer and one of the chain of stores selected by the software that ultimately fulfills the order. (Application at 1-2.)

After accessing the website, the Internet customer then enters the customer's delivery address information into the software, which the software uses to compute the closest available store of the chain of stores to the customer's location that can fulfill the order. (Application at 3-9.) The customer next enters their order into the software. (Application at 9-10.) The software then transmits the order to the selected store for order processing and fulfillment. (Application at 10-15.)

One of the key features of the software, required by each of the claims on appeal, is its ability to transmit the order directly into the receiving store's order processing and fulfillment computer system to bypass the order-taking process of the selected store. (Application at 11, 13-14.) Unlike prior art systems which merely deliver an order to a receiving store in a manner in which orders are conventionally placed (i.e. which would require a human to interpret), the system of the present invention pre-formats, transmits, inserts, and queues the order for fulfillment directly in the receiving store's point of sale order processing system - as if an employee of the store had actually entered the sale into the store's order processing computer system themselves. (Application at 13.) After the order is queued for fulfillment, the order is processed and ultimately delivered to the customer like any other order. In fact, Internet orders may be queued with conventionally-entered orders (*i.e.* orders entered by a human order-taker) such that, from the perspective of the order processing personnel (or system, if automated), the order is essentially indistinguishable from any other order being processed.

The present invention is capable of retransmitting the order if the interactive software is unable to successfully insert the order into the order processing queue. (Application at 13-14.) Additionally, if repeated attempts to automatically insert the order fail, the present invention is capable of employing back-up order transmission methods,

such as a PSTN connection to the manual, order-taker system of the store. (Application at 14-15.)

VI. Issue On Appeal

The issues are (1) whether U.S. Pat. No. 5,991,739, issued to *Cupps et al.*, anticipates claims 1-14, 16-24 and 26-30 under 35 U.S.C §102(b); and (2) whether claims 15, 25 and 31 are obvious in view of *Cupps et al.*

VII. Grouping Of Claims

For purposes of this appeal, claims 1-14, 16-24 and 26-30 stand as a single group, and claims 15, 25 and 31 stand as a single group.

VIII. Argument

A. Summary of the Rejection of the Claims

In the Office Action mailed September 2, 2003, claims 1-14, 16-24, 26-30, and 32 were finally rejected under 35 U.S.C. §102(b) as being anticipated by *Cupps, et al.* (US Patent 5,991,739). Claims 15, 25, and 31 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over *Cupps et al.*

1. The Examiner's Rejection of Claims 1-14, 16-24, 26-30 under 35 U.S.C. §102(b)

In rejecting claim 1, the Examiner asserted that *Cupps et al.* discloses “[a] method of receiving and placing an order on the Internet.../comprises using at least one of: The internet..” (citing to col. 2, lines 39-41); “storing at an Internet web site at least a partial list of stores.../storing said at least a partial list of stores.../storing a list of stores...” (citing to col. 2, lines 39-50 and col. 6, lines 19-30); “storing at said Internet web site a postal-service listing of customers...” (citing to col. 5, lines 29-32); creating the potentiality of establishing a point-to-point connection between the computer.../means for establishing communication with the computer...(col. 12, lines 4-10); receiving a request to order...(col. 12, lines 23-25); determining at said web site

which store of said at least a partial list of stores services the customer...(Col. 12, lines 26-30); receiving the order from the customer...(Col. 12, lines 65-66); downloading the order received.../downloading a customer order...downloading the order directly into the computer system of the selected store...(Col. 13, lines 60-62). [sic] a web-site on the Internet...(Col. 8, line 43-Col. 9, line 7)." (Office Action of September 2, 2003, page 3.)

Specifically with regard to Applicants' claimed limitation requiring the downloading of a customer order directly into the computer system of the selected store, thereby bypassing the order taking process of the selected store, the Examiner's argument relies upon the last two sentences of the specification before the claims, which suggest a possibility of sending orders to a restaurant via "web communication." (Office Action of September 3, 2003, page 7.)

In rejecting the remainder of claims 2-14, 16-24 and 26-30, the Examiner similarly asserted that *Cupps et al.* discloses each and every limitation of Applicants' claims. (Office Action of September 2, 2003, pages 3-6.)

2. The Examiner's Rejection of Claims 15, 25 and 31 under 35 U.S.C. §103(a)

The Examiner has rejected dependent claims 15, 25 and 31 as being obvious under 35 U.S.C. § 103(a) in view of *Cupps et al.*, on the basis that *Cupps et al.* purportedly discloses each limitation of the claims except for the normalizing of the address entered by the customer using address-normalization software. The Examiner contends that "[i]t would have been obvious to one of ordinary skill in the art to normalize addresses by using address-normalization software because this type of software is traditionally used in mail/delivery businesses to fulfill delivery compliance standards and to process deliveries faster and more efficiently." (Office Action of 9/2/2003, page 6.)

3. The Cupps et al. Prior Art

Cupps et al. discloses an Internet online order method and apparatus that pertains to an online ordering machine that manages the distribution of home delivered products using a computer system including customer computers connected to at least one server computer system that executes the online ordering machine. (*Cupps et al.* Col. 2, lines 19-24.) The invention of *Cupps et al.* is disclosed as relating to the ordering of food items from restaurants for delivery or pick-up. (*Cupps et al.* Col. 2, lines 39-41.)

The system disclosed in *Cupps et al.* provides a customer access to dynamically generated restaurant menus via their computer by communicating with an online ordering machine comprising a Web server. The online ordering machine identifies restaurants whose delivery area is compatible within the customer's location. The customer uses his/her computer to place an order with the Web server. Once the customer places an order, the online order machine converts the order into voice instructions which are transmitted to the restaurant through an ordinary telephone call. (*Cupps et al.* col. 2 ll. 39-63.) As specifically disclosed, a voice recognition system within the Web server receives the order as a text file and converts the order into a voice file of recorded speech segments. The system places a call to the restaurant and transmits the voice file which is played to the human order taker at the restaurant who answers the telephone call. The order taker hears in synthesized human speech and can respond to the system with DTMF tones to, for example, acknowledge the order. (*Cupps et al.* col. 2 l. 63 - col. 3 l. 6.) Alternatively, the Web server can transmit a facsimile to the restaurant to provide a printed order for receipt by the human order taker. (*Cupps et al.* col. 4 ll. 23-27.)

An important aspect of *Cupps et al.* is the means by which the orders are conveyed to the vendors/restaurants. As disclosed, orders are communicated to the restaurants by placing a telephone call which is answered by a human being or by sending a facsimile which is read by a human being. In each case, a human order taker at the restaurant receives and, in turn, processes the order – no different than if the customer called the restaurant, faxed an order form or placed an order in person at the restaurant.

B. Response To The Rejections Under 35 U.S.C. § 102(b)

1. The Applicable Law

Title 35 U.S.C. §102(b) creates a bar to patentability if “the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.” Furthermore, it is well settled that a *prima facie* case of anticipation is established when the Examiner provides: (1) a single reference (see *W. L. Gore & Associates v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983)), (2) that teaches or enables (see *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452 (Fed. Cir. 1984)), (3) each of the claimed elements arranged as in the claim (see *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452 (Fed. Cir. 1984)), (4) expressly or inherently (see *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264 (Fed. Cir. 1998)), (5) as interpreted by one of ordinary skill in the art (see *Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565 (Fed. Cir. 1991)). Furthermore, “under the principles of inherency, if the prior art necessarily functions in accordance with, or includes, the claimed limitations, it anticipates.” *In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1349 (Fed. Cir. 2002). However, inherency, “may not be established by probabilities or possibilities. The mere fact that a certain

thing may result from a given set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999).

2. Claims 1-14, 16-24 and 26-30 and 32 Are Not Anticipated by *Cupps et al.*

Appellant respectfully traverses the Examiner's rejection of claims 1-14, 16-24, 26-30 and 32 as being purportedly anticipated by *Cupps et al.* Independent method Claims 1 and 16 each require the step of "downloading the order directly into the computer system of the selected store, thereby bypassing the order-taking process of the selected store." Similarly, independent apparatus claim 26 requires a memory means associated with a web site computer having a section "storing applications software for downloading a customer order directly into the computer system of the selected store, thereby bypassing the order taking process of the selected store." The remainder of the claims ultimately depend from one of claims 1, 16 or 26, thereby incorporating one of the above-recited limitations.

As discussed above, *Cupps et al.* primarily addresses a system for transmission of orders to restaurants from a central system which places a telephone call to audibly convey an order to a human order taker via an IVR system, or faxes the order to an order taker via a store fax machine. Such a system is clearly distinguished by Applicant's claimed limitation requiring the downloading of an order directly into the computer system of the selected store, thereby bypassing the order taking process of the selected store. In either case (*i.e.* IVR or facsimile), an order taker at the recipient store must process the order to enter the order into a store computer system for fulfillment.

The only portion of *Cupps et al.* addressing alternative means of conveying an order to a store is the last paragraph of the specification before the claims, which states only:

In addition, the present invention is not constrained to transmitting a customer's order to the vendor through the interactive voice recognition system as described above. A modem connection can be established which will enable communication between the online ordering machine and the vendor through the Internet thereby allowing email communication, web communication, and the like.

(*Cupps et al.*, col. 12 lines 4-10.)

This limited description clearly fails to disclose Applicant's claimed invention, requiring the downloading of a customer order directly into the computer system of the selected store, thereby bypassing the order taking process of the selected store. Even crediting the disclosure of *Cupps et al.* with its broadest reasonable interpretation, no portion of *Cupps et al.* expressly discloses the bypassing of a store order taking process.

Additionally, the direct downloading of an order to bypass a store order taking process is not inherently disclosed by *Cupps et al.* "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

In this case, the mere communication of an order by email or web communication, does not at all require that the order be directly downloaded into the store computer, thereby bypassing the store order taking process – a limitation that is required by the claims at issue. Indeed, the natural reading of the *Cupps et al.* disclosure is that the order is merely conveyed electronically, to an order taker at the recipient store. Just as *Cupps et al.* requires an order taker to answer a telephone or read a fax transmission, it would similarly require an order taker to read an email or check a web site containing orders – prior to entry of that order into the store's computer by the order taker. Indeed, even the possibility that *Cupps et al.* could be deemed to describe a system requiring the intervention of an order taker precludes a finding that the claimed invention is inherently disclosed.

Finally, even if *Cupps et al.* did disclose the direct downloading of an order into a store's computer system to bypass the order taking process of the selected store, it fails to provide a disclosure that would enable the implementation of such a system. Anticipation requires that the alleged prior art include a disclosure that enables one skilled in the art to practice the claimed subject matter at the time of the invention without undue experimentation. See, e.g., *PPG Indus., Inc. v. Guardian Indus. Corp.*, 75 F.3d 1558, 1564-65 (Fed. Cir. 1996); *Helifix, Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 1346 (Fed. Cir. 2000) ("To be anticipating, a prior art reference must disclose 'each and every limitation of the claimed invention[,] . . . must be enabling[,] and [must] describe... [the] claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention") (citations omitted); *General Electric Co. v. Nintendo Co.*, 179 F.3d 1350, 1356-57 (Fed. Cir. 1999) ("[To anticipate a claim, a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter."] (citations omitted).

The entirety of the disclosure provided by *Cupps et al.* with regard to direct downloading of an order to bypass a selected store's order entry process is provided by the two sentences at column 12, lines 4-10, cited above. The drawings of *Cupps et al.* fail to illustrate any system configuration that would allow for such an automated implementation, but rather require telephonic or fax communication of orders to a store order taker. Also, the text of *Cupps et al.* fails to describe how one would implement the direct order download system claimed by Applicants. By contrast, Applicants provide extensive description, both in the text and the drawings, of how such an automated order transmission system can be effectively and reliably implemented. (See, e.g., Application pages 10-15, Figs. 4-5.) Thus, *Cupps et al.* also fails to anticipate Applicants' claimed inventions because *Cupps et al.* does not enable one of ordinary skill in the art to practice the claimed inventions without undue experimentation.

3. The Examiner's Argument of Anticipation
Fails as a Matter of Law

In support of a final rejection of claims 1, 3, 7, 16, 18, 22, 26, and 30, the Examiner relies upon the following argument:

Cupps et al. "is not constrained to transmitting a customer's order to the vendor through the interactive voice recognition system or fax system, but can be implemented through use of a modem connection, which will enable communication between the online ordering machine and the vendor through, for example web communications (See Col. 12, lines 4-10). This web communication would allow the user to skip the voice recognition/fax process and automatically download or upload information to and from the vendor's computer.

(Office Action mailed September 2, 2003, pages 7.) Applicant respectfully submits that the Examiner's argument of anticipation contains numerous errors.

In arguing that the use of "web communication would allow the user to skip the voice recognition/fax process and automatically download or upload information to and from the vendor's computer," it appears that the Examiner is

improperly relying upon the benefit of hindsight provided by Applicant's own disclosure. The Examiner's argument relies upon the conclusion that the mere recitation of web communication between the online ordering system and the vendor somehow necessarily entails downloading of the order directly into the computer system of the selected store, thereby bypassing the order taking process of the selected store. Applicant submits that, ignoring for the moment the enablement problems described above, *Cupps et al.* instead merely recites a system by which a store order taker can take an order via the web. For example, a store order taker could use the web to monitor an Internet message board on which orders are posted, allowing for the order taker to enter posted orders using the store's order taking process. Thus, the mere recitation of "web communication" does not constitute express or inherent disclosure of Applicant's claimed limitation that the customer order be directly downloaded into the computer system of the selected store.

The Examiner's argument also ignores the claimed limitation that the order be downloaded such that the store's order entry process is bypassed. Even if *Cupps et al.* provided enabling disclosure (which it does not), it merely recites a system by which a store order taker can take an order via the web, such as through the monitoring of an Internet message board on which orders are posted, allowing for the order taker to enter posted orders using the store's order taking process. *Cupps et al.* does not disclose or even suggest the bypassing of a store's order taking process.

The Examiner has also argued that the fax ordering operation disclosed by *Cupps et al.* anticipates the claimed inventions. Specifically, the Examiner argues:

In addition, when a customer submits an order request in Cupps, the order can be downloaded to the vendor's computer via the facsimile method. In this case, the order is downloaded directly to the vendor computer system via order text file. Note that the order text file is a file that is transmittable via computer. Here, the order text file is formatted and transmitted to the vendor via fax without relying solely on human interaction. In modern technology, a facsimile system can be stored as an application on a computers' hard drive. Therefore, it is not uncommon for the order to be downloaded directly to the vendor's computer when using the fax method.

(Office Action mailed September 2, 2003, pages 7-8.)

First, the Examiner provides no support for the conclusion that a facsimile order in the *Cupps et al.* system would be stored as an application on a computer's hard drive. *Cupps et al.* itself discloses a standalone fax machine. (See, e.g., *Cupps et al.* col. 4 ll. 24-27; col. 10 ll. 27-31; figure 2, reference 107A.) Absent express or inherent disclosure that a facsimile order according to *Cupps et al.* necessarily involves storage of a fax transmission on a store's computer, Applicant's claimed inventions cannot be anticipated.

Moreover, the Examiner's argument again ignores Applicant's critical limitation that the customer order is directly downloaded into the computer system of the selected store to bypass the order taking process of the selected store. A fax order transmission according to *Cupps et al.* still requires that the order be entered by an order taker at the selected store. Indeed, *Cupps et al.* specifically discloses that after the order fax is transmitted, a voice message is conveyed to the vendor to inform the vendor of the transmitted fax order. (*Cupps et al.*, col. 10 lines 30-32.) Thus, contrary to Applicant's claimed invention, *Cupps et al.* clearly requires the attention of store personnel to process a faxed order.

In sum, the Examiner's argument for rejecting Applicant's claims under 35 U.S.C. § 102(b) relies upon the benefit of hindsight of Applicant's own disclosure

to stretch the meaning of *Cupps et al.* far beyond the bounds of what is disclosed therein, while further ignoring crucial limitations in Applicant's claims.

C. Response To The Rejections Under 35 U.S.C. § 103(a)

1. The Applicable Law

In rejecting a claim under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See, e.g., *Ex parte Clapp*, 227 USPQ 972, 973 (B.P.A.I. 1985). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

2. Claims 15, 25 and 31 Are Not Obvious In View Of *Cupps et al.*

The Examiner has rejected claims 15, 25 and 31 as being purportedly obvious in view of *Cupps et al.*, based upon an argument that each claimed limitation other than the normalizing of a delivery address is disclosed by *Cupps et al.*, and the normalizing of a delivery address limitation is purportedly well-known in the art. However, each of claims 15, 25 and 31 include the limitation of downloading a customer order directly into the computer system of a selected store, thereby bypassing the order taking process of the selected store. For the reasons described above, this limitation is not at all disclosed by *Cupps et al.*

Furthermore, it would not be obvious to modify *Cupps et al.* to implement the downloading/bypassing limitation claimed by Applicant. For the reasons described in detail herein, *Cupps et al.* (the sole reference relied upon by the Examiner) does not at all describe a system in which orders are directly downloaded into the computer system of a selected store, thereby bypassing the store's order taking process. Indeed, *Cupps et al.* teaches away from Applicant's claimed invention. *Cupps et al.* primarily addresses two means of conveying orders to a selected store, and each involves transmission of the order information to an order taker, rather than direct entry into a store's order fulfillment system. Specifically, orders are conveyed by a centralized IVR system to a store order taker answering a telephone, or else via fax transmission, with an automated followup telephone call to prompt an order taker to retrieve the fax transmission for entry into the store's order fulfillment system. In both cases, *Cupps et al.* teaches the transmission of an order to an order taker at the selected store.

Cupps et al. itself also evidences the nonobviousness of Applicants' claimed inventions through its description of the prior art. For example, *Cupps et al.* describes a "World Wide Waiter" system which emails orders to a store – thereby requiring the store to read the email and enter the requested order. (*Cupps et al.* col. 1, ll. 14-29.) *Cupps et al.* also describes a "Waiters on Wheels" system which faxes an order to a participating restaurant – requiring a restaurant order taker to retrieve the fax and enter the requested order, or telephone a Waiters on Wheels office to indicate that the order cannot be filled. (*Cupps et al.* col. 1, ll. 47-62.) Finally, *Cupps et al.* describes a "PizzaNet" system which also sends orders to selected restaurants via fax – again requiring a restaurant order taker to retrieve the fax, enter the requested order, and possibly telephone the customer to confirm the order. (*Cupps et al.* col. 1 l. 63 to col. 2 l. 8.) Thus, contrary to Applicants' claimed invention, *Cupps et al.* and all of the prior art

systems described therein, teach the processing of orders by an order taker at the store level.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Inasmuch as *Cupps et al.* fails to teach or even suggest a system in which an order is downloaded directly into the computer system of a selected store, thereby bypassing the order taking process of the selected store, claims 15, 25 and 31 cannot be deemed obvious in view of *Cupps et al.*

IX. Conclusion

In view of the foregoing, Applicants respectfully submit that errors in the Examiner's rejections of the claims have been shown, and that the rejections have therefore been overcome, such that all claims 1-32 should be deemed allowable. Accordingly, Appellant respectfully requests that the Board withdraw all rejections to the claims and allow all of claims 1-32 towards ultimate allowance of the application as a whole.

Respectfully Submitted

Dated: 8/2/04

Douglas B. Teaney
Douglas B. Teaney
Reg. No. 33459

CERTIFICATE OF MAILING

I hereby certify that this APPEAL BRIEF is being deposited with the United States Postal Service as First Class Mail on the date indicated below in an envelope postage prepaid and addressed to: Mail Stop Appeal Briefs - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 20231-1450.

Dated: 8/2/04

Douglas B. Teaney

APPENDIX A

Pending claims:

CLAIM 1. (Original) A method of receiving and placing an order on the Internet to a selected store of a chain of stores, comprising:

- (a) storing at an Internet web site at least a partial list of stores of a chain of stores, and their postal addresses, where each store of the at least a partial list of stores services customers in a specific geographical area;
- (b) storing at said Internet web site a postal-service listing of customers potentially serviced by said at least a partial list of stores;
- (c) creating the potentiality of establishing a point-to-point connection between the computer associated with said Internet web site with the associated computer of each of said at least a partial list of stores;
- (d) receiving a request to order at said Internet web site from a customer;
- (e) determining at said web site which store of said at least a partial list of stores services the customer of said step (d);
- (f) receiving the order from the customer of said step (d);
- (g) downloading the order received in said step (f) to the selected store from said step (e);
- (h) said step (g) comprising downloading the order directly into the computer system of the selected store, thereby bypassing the order-taking process of the selected store.

CLAIM 2. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, further comprising:

- (i) uploading from the computer of the selected store of said step (e) the menu of that selected store; said step (i) being performed after said step

(e).

CLAIM 3. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, wherein said step (a) comprises storing said at least a partial list of stores by postal-service zip code.

CLAIM 4. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, wherein said step (b) comprises storing said customer listing by street address.

CLAIM 5. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 4, wherein said step (a) comprises storing the service-map of each store of said at least a partial list of stores, which service-map lists the boundaries of service of each said store by street address; said step (e) comprising matching the street address of the customer of said step (d) with the street address of a selected one of said at least a partial list of stores.

CLAIM 6. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 5, wherein said step (e) comprises comparing the street address of the customer of said step (d) with the street address of a plurality of chosen stores of said at least a partial list of stores in order to determine which selected one of the plurality of chosen stores specifically services the customer address of said step (d).

CLAIM 7. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, wherein said step (c) comprises using at least one of: The Internet and direct modem-to-modem connection over the PSTN.

CLAIM 8. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, wherein said step (g) comprises

attempting to download the order first via one of the: Internet, and downloading the order through a direct modem-to-modem connection via the PSTN to the selected store's computer.

CLAIM 9. (As Amended 6/18/03) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, wherein step (g) comprises downloading the order directly into the computer system of the selected store via at least one of the: The Internet, and direct modem-to -modem connection via the PSTN.

CLAIM 10. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, further comprising:

- (i) after said step (h), uploading from the computer of the selected store from said (e) to the computer of the Internet web site the estimated time of delivery of the downloaded order of said step (h); and
- (j) e-mailing the customer of said step (d) the estimated time of delivery.

CLAIM 11. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, further comprising:

- (i) e-mailing the customer of said step (d) a message that the selected store of said step (e) cannot fill the order via computer-to-computer connection.

CLAIM 12. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, further comprising, before said step (e):

- (j) uploading from at least one of the stores of said chain of stores the street-address servicing area serviced by said at least one store of said chain of stores; and
- (k) storing the street-address servicing area at said Internet web site.

CLAIM 13. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 12, wherein said step of uploading from at least one of the stores of said chain of stores the street-address servicing area serviced by each said at least one store of said chain of stores comprises uploading all of the servicing area maps of all of the stores of said chain of stores; and said step of storing the street-address servicing area at said Internet web comprises storing all of the uploaded servicing area maps of all of the stores of the chain of stores, whereby said step (e) may be performed.

CLAIM 14. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, wherein the order of said step (f) is for at least one pizza, said step (f) comprising:

said customer selecting at least the size of the pizza and the toppings therefor.

CLAIM 15. (Original) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 1, wherein said step (e) comprises: Normalizing the address entered by the customer using address-normalization software, so that the address is normalized to a certified postal-service address-list.

CLAIM 16. (Original) A method of sending an order received on the Internet to a selected store of a chain of stores, comprising:

- (a) storing at an Internet web site at least a partial list of stores of a chain of stores with their locations, where each store of the at least a partial list of stores services customers in a specific geographical area;
- (b) storing at said Internet web site a postal-service listing of customers potentially serviced by said at least a partial list of stores;
- (c) creating the potentiality of establishing a point to-point connection

between the computer associated with said Internet web site with the associated computer of each of said at least a partial list of stores;

- (d) determining at said web site which store of said at least a partial list of stores services a customer placing an order;
- (e) downloading a customer order to the selected store from said step (d);
- (f) said step (g) comprising downloading the order directly into the computer system of the selected store, thereby bypassing the order-taking process of the selected store.

CLAIM 17. (Original) The method of sending an order received on the Internet to a selected store of a chain of stores, according to claim 14, further comprising:

- (g) uploading from the computer of the selected store of said step (d) the menu of that selected store;
 - said step (a) comprising storing a list of stores of a chain of pizza stores;
 - said step (e) comprising downloading the size of the pizza ordered, the toppings therefor, and ancillary order-items.

CLAIM 18. (Original) The method of sending an order received on the Internet to a selected store of a chain of stores, according to claim 16, wherein said step (a) comprising storing a list of stores of a chain of restaurants.

CLAIM 19. (Original) The method of sending an order received on the Internet to a selected store of a chain of stores, according to claim 16, wherein said step (b) comprises storing said customer listing by street address.

CLAIM 20. (Original) The method of sending an order on the Internet to a selected store of a chain of stores, according to claim 19, wherein said step (a) comprises storing the service-map of each store of said at least a partial list of stores, which service map lists

the boundaries of service of each said store by street address; said step (d) comprising matching the street address of the customer with the street address of a selected one of said at least a partial list of stores.

CLAIM 21. (Original) The method of sending an order on the Internet to a selected store of a chain of stores, according to claim 19, wherein said step (d) comprises comparing the street address of the customer with the street addresses of a plurality of chosen stores of said at least a partial list of stores in order to determine which selected one of the plurality of chosen stores specifically services the customer address.

CLAIM 22. (Original) The method of sending an order on the Internet to a selected store of a chain of stores, according to claim 16, wherein said step (c) comprises using at least one of: The Internet, and direct modem-to-modem connection over the PSTN.

CLAIM 23. (Original) The method of sending an order on the Internet to a selected store of a chain of stores, according to claim 16, further comprising after said step (e), if said step (e) fails:

- (h) placing an automated computer generated, voice-order to said selected store for inputting the order through the normal, human-operator controlled order-taking service.

CLAIM 24. (Original) The method of sending an order on the Internet to a selected store of a chain of stores, according to claim 16, further comprising:

- (f) e-mailing the customer a message that the selected store cannot fill the order via computer-to-computer connection.

CLAIM 25. (Original) The method of sending an order on the Internet to a selected store of a chain of stores, according to claim 16, wherein said step (d) comprises: Normalizing the address entered by the customer using address-normalization software, so that the address is normalized to a certified postal-service address-list.

CLAIM 26. (Original) A system for sending an order received on the Internet to a selected store of a chain of stores, comprising:

a web-site on the Internet, said web site having a dedicated computer means and memory means operatively associated with said computer means, said memory means comprising;

a first section storing at least a partial list of stores of a chain of stores by postal address, where each store of the at least a partial list of stores services customers in a specific geographical area;

a second section storing a postal-service listing of customers potentially serviced by said at least a partial list of stores;

a third section storing applications software for creating the potentiality of establishing a point-to-point connection between the computer associated with said Internet web site with the associated computer of each of said at least a partial list of stores;

a fourth section storing applications software for determining at said web site which store of said at least a partial list of stores services a customer placing an order; and

a fifth section storing applications software for downloading a customer order directly into the computer system of the selected store, thereby bypassing the order taking process of the selected store.

CLAIM 27. The system for sending an order received on the Internet to a selected store of a chain of stores, according to claim 26, wherein said second section of said memory means comprises means for storing said customer listing by street address.

CLAIM 28. (Original) The system of sending an order on the Internet to a selected store of a chain of stores, according to claim 26, wherein said first section comprises means for storing the service-map of each store of said at least a partial list of stores, which service-map lists the boundaries of service of each said street by street address; and said fourth section comprising means for matching the street address of the customer with the street address of a selected one of said at least a partial list of stores.

CLAIM 29. (Original) The system of sending an order on the Internet to a selected store of a chain of stores, according to claim 27, wherein said fourth section comprises software application means for comparing the street address of the customer with the street addresses of a plurality of chosen stores of said at least a partial list of stores in order to determine which selected one of the plurality of chosen stores specifically services the customer address.

CLAIM 30. (Original) The system of sending an order on the Internet to a selected store of a chain of stores, according to claim 26, wherein said fifth section comprises means for establishing communication with the computer of the selected one of the chain of stores by at least one of: The Internet, and direct modem-to-modem connection over the PSTN.

CLAIM 31. (Original) The system of sending an order on the Internet to a selected store of a chain of stores, according to claim 26, wherein said memory means further comprises a sixth section storing normalizing software for normalizing the address entered by the customer, so that the address is normalized to a certified postal-service address-list.

CLAIM 32. (New - added 6/18/03) The method of receiving and placing an order on the Internet to a selected store of a chain of stores, according to claim 2, wherein step (i) comprises uploading the order directly into the computer system of the selected store via at least one of the: The Internet, and direct modem-to -modem connection via the PSTN.